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December 7, 2010

VIA ELECTRONIC FILING

Ms. Cynthia Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001

228380

Re: ***AEP Texas North Company v. BNSF Railway Company,***
STB Docket No. 41191 (Sub-No. 1)

Dear Ms. Brown:

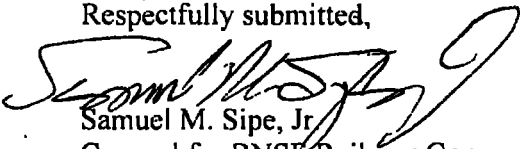
This letter responds to the November 29, 2010 letter from counsel for AEP Texas North Company ("AEP Texas") to the Board in the above-referenced matter. In the November 29, 2010 letter, AEP Texas asked the Board to strike from the record BNSF's November 22, 2010 Comments on Remand or in the alternative to give AEP Texas until January 28, 2011 to reply to BNSF's Comments on Remand.

The Board should not strike from the record BNSF's Comments on Remand. AEP Texas wrongly claims that BNSF's filing of comments on remand without waiting for the Board to establish a procedural schedule violates an established rule or practice regarding remand procedures. There is no established rule or practice at the Board for addressing issues that have been remanded from an appellate court to the Board. The Board has the authority to establish a procedural schedule on remand or to request comments or argument on specific matters relevant to the issues on remand. But in the absence of a specific procedural schedule, it is not improper for a party to an adjudicatory proceeding to submit comments to the Board to assist the Board in addressing an issue on remand.¹ BNSF is not aware of any cases where the Board has refused to consider relevant evidence or argument submitted to it after a remand.

¹ In another pending rate reasonableness case, the complainants also moved to strike comments filed by BNSF on remand. See Motion to Strike, *Western Fuels Association, Inc. and Basin Electric Power Cooperative, Inc. v. BNSF Railway Company*, STB Docket No. 42088 (filed November 29, 2010). In BNSF's reply to that motion, filed simultaneously with this letter.

As to AEP Texas' request for an extension of the normal 20-day period to reply to BNSF's Comments on Remand, BNSF does not oppose AEP Texas' request that it be given until January 28, 2011 to file a reply.

Respectfully submitted,



Samuel M. Sipe, Jr.
Counsel for BNSF Railway Company

cc: Counsel for AEP Texas

BNSF discusses in greater detail the cases demonstrating that a wide variety of procedures have been followed by the Board and parties on remand.